

**Texas Department of Insurance, Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**PART I: GENERAL INFORMATION**

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|---|------------------|---------------|
| Requestor's Name and Address: KULM MEDICAL PA P.O. BOX 430 ROWLETT, TX 75032 | MFDR Tracking #: | M4-09-8900-01 |
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| | | |
| Respondent Name and Box #: AMERICAN CASUALTY CO. REP. BOX #: 47 | | |
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PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION

Requestor's Position Summary as stated on the Table of Disputed Services: "This code was denied as "global to another procedure code." Please note a -59 modifier was added to denote a separately identifiable procedure. Please see attached CCI edits reflecting this modifier is allowed. Please further note this specific code was preauthorized. See attached preauthorization 1000333020 ."

Principle Documentation:

1. DWC 60 package
2. Total Amount Sought - \$40.46
3. CMS 1500s
4. EOBs

PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION

Respondent's Position Summary: Response not submitted

PART IV: SUMMARY OF FINDINGS

| Eligible Dates of Service (DOS) | CPT Codes and Calculations | Part V Reference | Amount Ordered |
|---------------------------------|----------------------------|------------------|----------------|
| 12/30/2008 | CPT Code 97530-59-GP | 1 – 4 | \$0.00 |
| Total: | | | \$0.00 |

PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION

Texas Labor Code Section 413.011(a-d), titled *Reimbursement Policies and Guidelines*, and 28 Texas Administrative Code (TAC) Section 134.203, titled *Medical Fee Guideline* effective for professional medical services on or after March 1, 2008, set out the reimbursement guidelines.

1. The MFDR placed a copy of the DWC-60 in the carrier representative box on June 3, 2009. Under 28 TAC Section 133.307 (d) (1), the carrier has 14 days to respond to a request for MFDR. As of December 1, 2009, the carrier had not responded to MFDR. Therefore, a decision will be issued with the information available at the time of the audit.

2. These services were denied by the Respondent with reason codes:
 - 97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
 - W4 – No additional reimbursement allowed after review of appeal/reconsideration.
3. The CPT Manual defines modifier -59 as follows: “Distinct Procedure Service: Under certain circumstances, the physician may need to indicate that a procedure or service was distinct or independent from other services performed on the same day. Modifier 59 is used to identify procedures/services that are not normally reported together, but are appropriate under the circumstances. This may represent a different session or patient encounter, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same physician. However, when another already established modifier is appropriate, it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used.” Modifier -59 is an important NCCI-associated modifier that is often used incorrectly. For the NCCI its primary purpose is to indicate that two or more procedures are performed at different anatomic sites or different patient encounters. Modifier -59 and other NCCI associated modifiers should not be used to bypass an NCCI edit unless the proper criteria for use of the modifier is met. Documentation in the medical record must satisfy the criteria required by any NCCI associated modifier used.
4. According to 28 TAC, Section 134.203(b)(1) the Requestor has not met the requirements of modifier -59; therefore, reimbursement is not recommended.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES

Texas Labor Code Sections 413.011(a-d), 413.031 and 413.0311
28 Texas Administrative Code Sections 133.307, 134.1, 134.203
Texas Government Code, Chapter 2001, Subchapter G

PART VII: DIVISION DECISION AND ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Section 413.031, the Division has determined that the Requestor is not entitled to reimbursement for the services involved in this dispute.

DECISION:

Authorized Signature

Auditor III
Medical Fee Dispute Resolution

December 2, 2009

Date

PART VIII: YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division Rule 148.3(c).

Under Texas Labor Code Section 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code Section 413.031.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.